

# ***Key Ideas***

## **Chapter 8: The Excessive Levy Appeal Process**



*In this section, we will discuss the following:*

- *How to determine if you are eligible for an increase in levy.*
- *When to consider application for appeal.*
- *The appeal application process.*
- *Types of appeals.*
- *The Local Government Tax Control Board hearing.*
- *The State Tax Board final determination.*

## **EXCESSIVE LEVY APPEAL PROCESS**

The following section describes the excessive levy appeal process for County Auditors. Before beginning, it is important to have a general understanding of what an excessive levy appeal is and how the appeal ties into the budget process. An excessive levy appeal is a request for consideration of an increase in levy for a county that is experiencing increased growth or increased operating expenses. The increase requested is above the normal maximum levy limitation in place by statute. The following outlines the excessive levy appeal process, time frame for consideration of an appeal, application to be filed and current appeals available.

### **Process**

Any county that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute, may on or before October 2 of the year preceding the ensuing calendar year appeal to the State Board of Tax Commissioners for an increase in levy.



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A county is required to file a written petition with the State Board of Tax Commissioners stating that it cannot carry out the functions required by law and must supply a detailed statement outlining the need for an appeal. The State Board of Tax Commissioners submits the appeal petition to the Administrative Officer of the Local Government Control Board for consideration of the appeal.

The county unit may/may not be required to appear before the Local Government Tax Control Board for consideration of the appeal. The Local Government Tax Control Board reviews the petition and the financial information and makes a recommendation to the State Board of Tax Commissioners. The Local Government Tax Control Board is a recommending body only. The final decision will be made by the State Board of Tax Commissioners and an order will be issued to reflect the final determination.

Counties that fail to submit the required information will be denied. The county may not submit a new application until the next subsequent taxing year.

## **Time-frame**

A county must consider application for an appeal during budget preparation. Any excessive levy appeals become part of the county's budget estimates for the ensuing calendar year. When the county prepares budget estimates for the ensuing calendar year, the amount of the excessive levy appeal to be considered by the County Council and by the State Board of Tax Commissioners must be included in the county's estimated levy on line 16 and budget estimate reflected on line 1 of County Form 4B. This levy figure must be inflated above your current maximum levy limitation to support consideration of an appeal. Ex. If an appeal for Reallocation of PTRC is pursued and the county foresees an increase in levy of \$10,000 then the net amount to be raised on Line 16 of Form 4B should include the \$10,000 appeal to be considered by the County Council and State Board of Tax Commissioners plus the normal levy requested. If a County Council fails to adopt the excessive levy appeal requested, the State Board of Tax Commissioners may deny the request. It is the County Auditor's responsibility to advertise and adopt high enough for consideration of an appeal.



*A county must consider application for an appeal during budget preparation.*

## **Application**

Each year, the Budget Division of the State Board of Tax Commissioners mails to each county a "Report of Appealing Taxing Unit" that identifies the type of appeals available to the county for the ensuing calendar year. The appeal petition must be submitted directly to the State Board of Tax Commissioner's Budget Division.

**Top Section:** The Auditor must complete this section which provides the Budget Division with County Unit information. The blanks to be completed include Auditor's name, address, city/state/zip, telephone and county. The hearing notice will be mailed to the name and address listed in this section.

**Middle Section:** The County Auditor checks the types of excessive levy appeals under consideration. A county must select the applicable section(s) on the form. The Administrative Officer for the Local Government Tax Control Board must be able to identify which appeal the county is applying for before a hearing will be scheduled.

**Bottom Section:** The bottom section provides a list of information that should accompany the excessive levy appeal request.

The Auditor must specify why an appeal is necessary. This should not consist of a general statement that expenses have increased. The Auditor should specify which costs

have increased or what services cannot be provided to taxpayers. This section should support the entire need for the appeal. Additional pages can be attached if the space provided is not ample.



*On page 1, the county must specify what type(s) of excessive levy appeals are being requested and why the appeal is necessary.*

*On page 1, a list of the information that must accompany the excessive levy appeal request is provided.*

- 1) Reallocation of PTRC (Property Tax Replacement Credit):** This appeal is for CAGIT counties only. The amount of the appeal is reflected on the line titled “Subtract 2\_\_\_\_ Property Tax Replacement Credit” on the lower right hand corner of the maximum levy worksheet provided to each county by the County Auditor. A copy of the current maximum levy worksheet must be submitted with the appeal petition. The amount to be considered is on the lower right portion of the maximum levy sheet and is part of the calculation of the final maximum levy figure. County’s must specify on the appeal petition the amount of Reallocation of PTRC requested.

<b>Example: Multiply factored adjusted tax levy by annex factor</b>	<b>269246</b>
<b>Subtract amount determined pursuant to PL78-1997 (PL64-1986)</b>	<b>-33284</b>
<b>Subtract 1999 property tax replacement credit (if any)</b>	<b>*38879</b>
<b>1999 maximum levy sub-total</b>	<b>263651</b>

**\*38879 is the amount to be reallocated**

- 2) Cost of operating courts established by the General Assembly in legislation enacted after 1973:** This appeal allows a county to capture increased costs associated with the establishment of a new court after 1973. The appeal captures the difference between the current year’s budget before the court was established and the immediate preceding year after the court is in operation. The appeal is applicable one (1) time only but is considered a permanent increase to the maximum levy limitation for the county. Any unit applying for the appeal must provide a detailed breakdown of costs during the first full year the court was in existence and the prior year costs for operating a court.
- 3) Three-year growth factor:** This appeal is applicable to county’s that experience excessive growth over a three-year period. The average growth in assessed valuation

is reflected on the county's maximum levy sheet. The amount of growth factor allowable for an appeal is the difference between the growth reflected on the maximum levy sheet and a factor of 1.1 (the unit's three-year average growth must exceed 1.1). A copy of the current year maximum levy sheet must be submitted to reflect the last two-year's assessed valuations.

**For example: Maximum levy sheet growth factor:**

Year 1 factor is 1.2258  
Year 2 factor is 1.2574  
Year 3 factor is 1.1123

Three-year total is 3.5955

Three-year average unit growth factor is  $3.5955/3 = 1.1985$

Unit would qualify for  $1.1985 - 1.1 = .0985$  increase in maximum levy limitation.



*This appeal is applicable to county's that experience excessive growth over a three-year period.*

- 4) **Sec. 14 (a) Correction of any advertising errors, mathematical errors or errors in data.** The unit simply states what type of error(s) occurred and the amount of the error that should be considered by the Control Board. The State Board of Tax Commissioners will review the information presented and consider the appeal. The appeal form should provide documentation that identifies the type and amount of errors made.
- 5) **Shortfall due to erroneous assessed valuation:** List all funds within the levy limitations. Attach copies of Form 102 (Apportionment Sheets) obtained from the County Auditor as completed for the prior year June and December settlement distributions for each taxing district in which the appealing unit charges tax. Also include a copy of the certified budget order issued by the State Board of Tax Commissioners and a copy of the County Auditor Certificates or Error and Refunds issued for the calendar year under consideration. The reason for the shortfall appeal must be specific. No shortfalls will be considered for delinquent tax payments. Any anticipated shortfalls based on current year distributions will not be considered.

The following formula should be used to calculate a shortfall appeal:

Fund Name      Fund Name      Fund Name

1. Prior year Certified Property  
Tax Levy
2. Actual Property Tax  
Receipts (From Form 102)
3. Reductions in taxes due to  
pending appeals.
4. Prior year property taxes  
(Line 2-3)
5. Actual shortfall realized  
(Line 1-4)
6. Prior year shortfall being collected
7. Shortfall requested w/ensuing year  
Budget (Line 5-6)

Shortfall appeals will not be considered without the appropriate documentation.

- (6) Increases in pension payments and contributions:** This appeal is for county's that experience increases in pension payments and/or contributions for firefighters. This appeal is rarely filed on the county level. To file for the appeal, the following information is needed: Police pension Form 10, Schedules 1,2,3 for both the current year and ensuing year.

The calculation is determined from the amount adopted on Pension Certificate Form 8 less the schedule 1,2 and 3 figures for the current year and ensuing year.



*This appeal is for a county that experience increases in pension payments and/or contributions for police or firefighters.*

- (9) Hazardous Waste Removal (up to \$.20):** This appeal is necessary to provide removal and remedial action relating to hazardous substances in solid waste disposal facilities or industrial sites in the civil taxing unit that are considered a menace to the

public health and welfare. The appeal is restricted to certain areas: a county with a population of greater than one hundred twenty nine thousand (129,000) but less than one hundred thirty six thousand (136,000); a city with a population of more than forty-three thousand seven hundred (43,700) but less than forty-four thousand (44,000); a city with a population of more than twenty-five thousand five hundred (25,500) but less than twenty six thousand (26,000); a city with a population of more than fifteen thousand three hundred fifty (15,350) but less than fifteen thousand five hundred seventy (15,570); and a city with a population of more than five thousand six hundred fifty (5,650) and less than five thousand seven hundred eight (5,708).

The maximum amount of this appeal is up to \$.20 but the appeal is applicable for a two-year period.

### **Financial Information Sheet**

The Auditor is required to complete a financial information sheet for an excessive levy appeal request. The purpose of the financial information sheet is to provide an overview of revenue and expense for each fund in the county. The financial information sheet resembles a sixteen-line statement and contains current year information and ensuing calendar year information. Most of the information requested can be found on a copy of your 16-line statement presented by the State Board of Tax Commissioners at the fall budget hearing. The State Board of Tax Commissioners requires a completed financial information sheet to be submitted with the appeal petition and resolution before consideration of the appeal.

The State Board of Tax Commissioners and the Local Government Tax Control Board review the financial information sheet to insure that additional revenues are not currently available that could be used to support the budget in lieu of filing an appeal request.

### **Recommendation by Control Board**

The Control Board reviews the appeal information and ensure proper procedures have been followed. The Control Board makes a **recommendation** to the State Tax Board approving, reducing, or disallowing an appeal request. It is important to understand that the Control Board is a recommending body only. The State Board of Tax Commissioners will make a decision based on the information presented and testimony given at the hearing. An order will be issued reflecting the final decision of the State Board of Tax Commissioners.



*The Control Board makes a recommendation to the State Tax Board approving, reducing, or disallowing an excessive levy appeal request. It is important to understand that the Control Board is a recommending body only.*

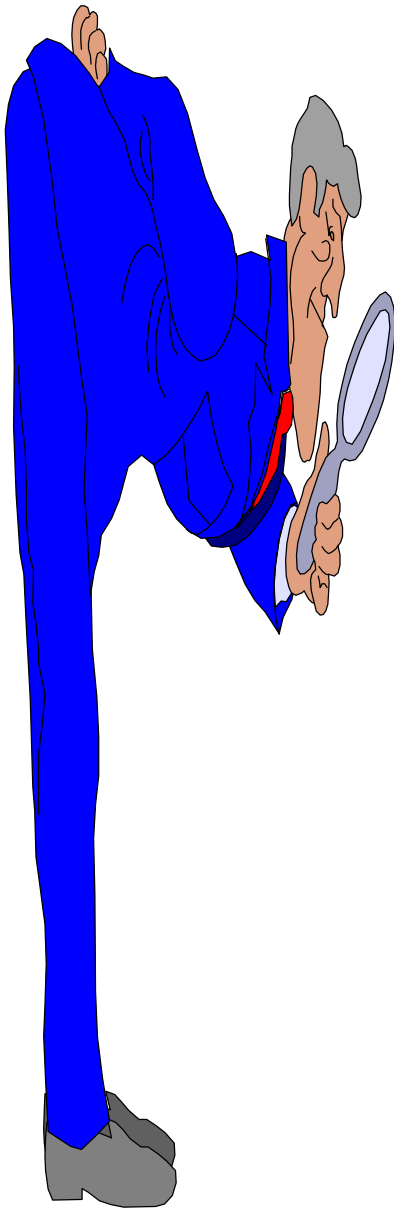
### **Additional Levy**

If the State Board of Tax Commissioners approves an excessive levy appeal for your county, the amount will be “worked” in prior to certification of budgets, tax rates and tax levies for the county.



# Summary

## Chapter 8: The Excessive Levy Appeal Process



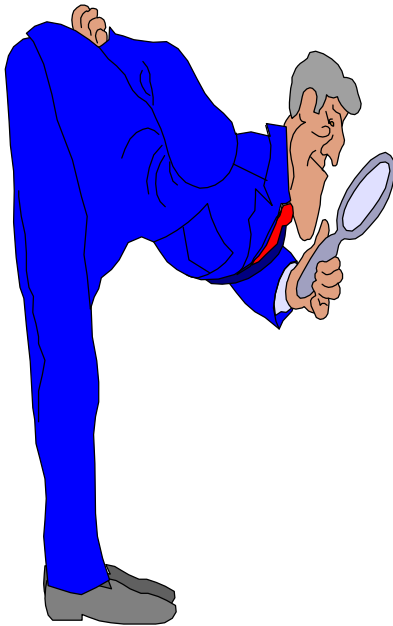
*In this section, we have discussed the following:*

- *Any county that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute, may on or before October 2 of the year preceding the ensuing calendar year appeal to the State Board of Tax Commissioners for an increase in levy.*
- *A county must consider application for an appeal during budget preparation.*
- *The county must specify why an appeal is necessary.*
- *The county must indicate what type of appeal (statutory relief) is being requested.*
- *The three year growth factor appeal is applicable to county's that experience excessive growth over a three year period.*
- *The cost of operating courts appeal allows a county to capture the increased operating costs associated with opening a new court.*



# *Summary* (Continued)

## *Chapter 8*



*In this section, we have discussed the following:*

- *The Control Board makes a recommendation to the State Tax Board approving, reducing, or disapproving an appeal request. It is important to understand that the Control Board is a recommending body only.*
- *Excessive levy appeals may be a temporary or permanent increase to a unit's maximum levy limitation.*